

CITY OF NEW HAVEN,	)	SUPERIOR COURT
	)	
Plaintiff,	)	COMPLEX LITIGATION DOCKET
	)	
v.	)	AT HARTFORD
	)	
PURDUE PHARMA L.P., d/b/a PURDUE	)	
PHARMA (DELAWARE) LIMITED	)	
PARTNERSHIP, <i>et al.</i> ,	)	
	)	
Defendants.	)	January 4, 2018

**MOTION TO DISMISS ON BEHALF OF DEFENDANTS AMERISOURCEBERGEN CORPORATION, MCKESSON CORPORATION AND CARDINAL HEALTH, INC.**

Pursuant to Practice Book § 10-30, defendants, AmerisourceBergen Corporation (“ABC”), McKesson Corporation (“McKesson”) and Cardinal Health, Inc. (“Cardinal Health”) (collectively, the “Distributors”), hereby move to dismiss this action based on lack of subject matter jurisdiction.<sup>1</sup>

The plaintiff, the City of New Haven (the “City”), lacks standing to bring this action for three reasons.

First, the City’s alleged injuries are too indirect, remote, and derivative as they relate to the Distributors’ alleged conduct. The alleged injuries suffered by the City are increased costs of providing municipal services to those of its residents who became addicted to opioid medications. Therefore, the City’s alleged injuries are, at best, derivative, and this action is barred by controlling Connecticut Supreme Court precedent in *Ganim v. Smith & Wesson Corp.*, 258 Conn. 313, 780 A.2d 98 (2001). In *Ganim*, the City of Bridgeport sued gun manufacturers and retail sellers for costs of municipal services incurred in addressing gun violence that harmed

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<sup>1</sup> By submitting this motion, Defendants AmerisourceBergen Corporation and Cardinal Health, Inc. do not concede that they are a proper parties to this litigation.

citizens of Bridgeport. The Supreme Court held that Bridgeport lacked standing to sue because its harms were “too remote, indirect and derivative with respect to the defendants’ alleged conduct.” *Id.* at 344.

Second, the City has not pled any statutory authority or other basis that would confer standing. Although the City asserts that it has such authority under the Home Rule Act, the Supreme Court squarely rejected the same argument in *Ganim*, holding that said Act does not authorize a municipality to sue on its citizens’ behalf in these circumstances. Similarly, contrary to its allegations, the City does not have *parens patriae* authority to sue absent express delegation from the State, which has not occurred.

Third, the municipal cost recovery doctrine, which provides that public expenditures made in the performance of government functions are not recoverable, independently bars the City’s action because the City’s alleged damages are all based on increased costs of municipal services.

Finally, even if the City was able to overcome these standing issues, it nonetheless lacks standing to pursue its Connecticut Unfair Trade Practices (“CUTPA”) claim because it lacks the necessary business relationship with the Distributors and because, as the Supreme Court ruled in *Ganim*, CUTPA is also subject to the remoteness doctrine as a limitation on standing.

WHEREFORE, for the reasons set forth herein as well as in their accompanying Memorandum of Law, the Distributors respectfully move the Court to dismiss the City's Complaint dated October 25, 2017.

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## **CERTIFICATE OF SERVICE**

I certify that a copy of the above was or will immediately be mailed or delivered electronically or non-electronically on January 4, 2018, to all counsel and self-represented parties of record and that written consent for electronic delivery was received from all counsel and self-represented parties of record who were or will immediately be electronically served.

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